



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2201702
Applicant Name: J.A. Bredal for Western Tugboat
Address of Proposal: 601 NW 40th Street

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to establish use for the future construction of a 1-story building containing 2816 square feet of administrative office space and 7084 square feet of storage. Project includes 50,960 square feet of outdoor storage and surface parking for 32 vehicles (47 total). (Accessory to Western Towboat Company).

The following Master Use Permit components are required:

Shoreline Substantial Development Permit (SMC Chapter 23.60.840) to allow building construction and outdoor storage in the Urban Industrial (UI) Shoreline Environment

SEPA - Environmental Determination - (SMC Chapter 25.05)

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ EIS
 ☒ DNS with conditions*
 ☒ DNS involving non-exempt grading or demolition
 or involving another agency with jurisdiction.

*Early Notice DNS was published 31 July 2003

BACKGROUND DATA

Site

The subject parcel, a single development site, is located along the Ship Canal to the north of the 6th Avenue NW Extension, to the south of NW 40th Street, and to the west of 6th Avenue NW. This single development site is constituted of the two parcels that plan page A1 identifies as "Legal Description (Building ID #1)" and "Legal Description (Building ID #2)". There are no established uses on the former portion of the site. The established use on the latter portion of the site is defined by Permit No. 654591 as "major vessel repair". The constituent parts of the major vessel repair use are accessory office (3,250 square feet), accessory shop (5,500 square feet), and

accessory outdoor storage (27,594 square feet) spaces, together with 15 accessory parking spaces. Tugboat services are not presently established by permit on any portion of the subject site.

The development site is largely flat. There is a small steep slope critical area mapped at the SE corner of the property, which extends across the waterward 40 feet of the 6th Avenue NW Extension street end. The mapped area appears to correspond to historic contours, which have likely since been largely leveled. There remains, however, a substantial area near the water where there are low but steep slopes. A small area in the northwest portion of the development site is in a mapped liquefaction area. There is an electrical “strike” for the Western Towboat development site in the street end, at the very east edge of its portion of it, well-set-back from the water’s edge. At its foot is a new concrete slab, roughly 12-feet by 12-feet in size. Wires appear to run from the strike through a panel and thence underground, under the slab, through conduit to the existing building. There is an abandoned pole and panel to the west of the operative one. Debris and scattered, apparently long-untouched salvage items are loosely strewn about the street end, including metal rings, wooden spools, sheets of metal, a propeller, and a small chunk of metal gangway. Most of this material is well away from the water’s edge.

Vicinity

The development site is within an easy walk from the Fremont neighborhood. Development surrounding this site consists mainly of industrial buildings and uses, including outdoor storage and accessory parking. Across 6th Avenue NW to the east, for example, is the Dorian Metal Fabricating company. Across 6th Avenue NW Extension to the southeast is Flohr Metal Fabricators. Flohr and Western Towboat share use of the 6th Avenue NW Extension street end under permit from Seattle Department of Transportation, roughly splitting the area between them. Trident Seafoods owns and uses a large section of the shoreline across NW 40th Street to the north of the Western Towboat development site.

The Ship Canal is quite wide in this vicinity, and there are outstanding views of the wooded slopes of Queen Anne Hill from upland streets adjacent to the site. There is a substantial, though still immature mall cottonwood-like tree growing in the street end.

Proposal

The applicant proposes to maintain most of the existing major vessel repair marine retail sales and service use on the portion of the development site with legally established uses, but to change the use of the accessory office to tugboat services (dispatch offices, 3,250 square feet). On the balance of the site, the applicant proposes to construct a 9900 square foot building to the east of the existing building on the development site, constituted of 7,084 square feet of warehouse accessory to major vessel repair on the adjacent site, and 2816 square feet of office accessory to tugboat services on the balance of the site. The presently vacant portion of the site is also proposed to be established for 50,960 square feet of outdoor storage space accessory to major vessel repair, and 32 parking spaces accessory to the two water dependent uses. The moorage associated with the tugboat services use would be along the entire waterfront property line of the subject property.

The proposal shows fencing in the 6th Avenue NW Extension streetend, and some limited use of this area has been permitted by Seattle Department of Transportation. It is apparently desired to maintain these uses, which appear to include the electrical panels and distribution equipment together with accessory outdoor storage. Only the electric pole is shown on plans.

Public Comment

No comments were received during the public comment period, which ended on 29 August 2003.

ANALYSIS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC.*

A. RCW Chapter 90.58

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The proposed building, its parking, and much of its outdoor storage does not adversely impact the public health, land, and the waters of the state, and their aquatic life, or interfere with the public rights of navigation and corollary rights. However, the large majority of the portion of the adjacent public right of way (street end) under the proponent's control has been used for accessory storage, not access, and results in material adverse impact on public access to the water and on the vegetation and wildlife of the shoreline. Thus, this ancillary aspect of the proposed uses is not consistent with the policies and procedures of Chapter 90.58. This situation could be remedied by appropriately re-vegetating the most waterward 20 feet of the street end. Accordingly, project approval is conditioned upon provision of such plan prior to issuance of the Master Use Permit, upon actual installation of vegetation per plan prior to issuance of any temporary or permanent certificate of occupancy, and upon maintenance of such vegetation per plan for the life of the project. This conclusion has been reached following consultation with the Seattle Department of Transportation.

B. SSMP Chapter 23.60

Chapter 23.60 of the Seattle Municipal Code is known as the “Seattle Shoreline Master Program”. In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SSMP 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SSMP 23.60.064).

The purpose of the UI Environment is to provide efficient use of industrial shorelines for water-dependent and water-related industrial uses. The code permits outright major vessel repair and tugboat services uses. The proposed office, parking and outdoor storage uses, being clearly accessory to these permitted uses (and on the same site), are also permitted outright.

Marine retail sales and services must meet the development standards for the UI Environment (SSMP 23.60.870), as well as the general development standards for all shoreline environments (SSMP 23.60.600). Additionally, the proposed project must also meet the development standards of the underlying General Industrial (IG2 U/65) zone (SMC Chapter 23.50). The Director may attach to the permit or authorize any conditions necessary to carry out the spirit and purpose of, and ensure the compliance with, the Seattle Shoreline Master Program (SSMP 23.60.064).

SMC 23.60.152 - General Development Standards

These general standards apply to all uses in the shoreline environments. The standards require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses shall minimize any increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. All development and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas.

The large majority of the proposal, namely the on-site portions, will be consistent with these development standards for the following reasons: The Stormwater, Grading and Drainage Control Code regulates new development and land-disturbing activities and requires best management practices be used to accomplish the control of erosion and the transport of sediment from the site by mulching, matting and/or the use of silt fences; permanent stabilization of exposed soils that are not being actively worked by the installation of permanent vegetative cover and/or installation of slope protective materials; and, the control of the introduction of contaminants and pollutants, and reduction and treatment of contaminants in City systems by the regular cleaning of catch basins, gravel truck loading and heavy equipment areas, sweeping, and maintaining erosion control protective features. A drainage control plan and grading plan, prepared by a licensed civil engineer in accordance with standards adopted by the Director of Construction and Land Use, are required with submittal of the building permit. The proposal will not require any work within the waters of Puget Sound.

The only potential problem here is what is going on in the street end, which is clearly shown to be in use by the applicant (i.e. the area is fenced in to extend the property). A site visit confirmed that substantial street end area is in use by the applicant, both for electrical service and for loose storage of debris and miscellaneous material. The City’s GIS map also shows a large

barge or towboat blocking the street end and occupying a large piece of frontage of the subject property - hence, presumably associated with uses on the property. SMC Section 23.60.152.Q.6 requires that an open channel, unobstructed by vessels or structures for access to and from the water for public navigation and for access to adjacent properties shall be maintained. Hence, project approval shall be conditioned upon maintaining continuous comportment with this standard.

In addition to the problem identified above, the proposal does not comport with general development standards, in particular 23.60.152.I and J, which address erosion processes and compatibility with habitat at the water's edge. As noted above, this situation could be remedied by appropriately re-vegetating the most waterward 20 feet of the street end. Accordingly, project approval is conditioned upon provision of such plan prior to issuance of the Master Use Permit, upon actual installation of vegetation per plan prior to issuance of any temporary or permanent certificate of occupancy, and upon maintenance of such vegetation per plan for the life of the project. This conclusion has been reached following consultation with the Seattle Department of Transportation.

SMC 23.60.870 - Development Standards for UI Environment

All development must conform to the development standards in the UI Shoreline Environment. The proposal meets the maximum height of 35 feet as specified by SMC Section 23.60.872.A. (The proposed structure reaches a height of 31.5 feet.) Lot coverage is not an issue, because the UI Environment allows structures to occupy up to 100 percent of the lot. No view corridors are required because the site will be occupied with water-dependent uses. Regulated public access is not required for the proposed water-dependent uses located on private property. The proposal, as designed, meets the development standards of the UI Environment.

SMC 23.50.015 - Industrial Development Standards

The project proposal must meet the development standards of the underlying General Industrial 2 zone. The proposal meets the 65 foot height, setback, screening and landscaping, venting, odor, glare and access standards.

Street improvement standards also apply in the zone, and these are satisfied by the proposed pedestrian way and no-protest agreements.

C. WAC Chapter 173-27

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Conclusion

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms with the policies and procedures of the WAC, RCW and with the regulations of Chapter 23.60, Seattle Shoreline Master Program.

As conditioned below, the project as proposed meets the specific standards for development in the Urban Industrial Environment. It also conforms to the general development standards, as well as the requirements of the underlying zone, and therefore should be approved.

Thus, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

DECISION – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposed action is **CONDITIONALLY GRANTED**.

CONDITIONS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

(Following SEPA analysis and conditions.)

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated 29 May 2003. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-Term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulates from building activities and hydrocarbon emissions from construction vehicles and equipment; increased dust caused by construction activities; increased traffic due to construction-related vehicles, and increased noise during construction. Due to the temporary nature and limited scope of these impacts, they are not considered to be significant (SMC 25.05.794).

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater, Grading and Drainage Control Code regulates new development and land-disturbing activities and requires best management practices be used to accomplish the following: control of erosion and the transport of sediment from the site by mulching, matting and/or the use of silt fences; permanent stabilization of exposed soils that are not being actively worked by the installation of permanent vegetative cover and/or installation of slope protective materials; and, the control of the introduction of contaminants and pollutants, and reduction and treatment of contaminants in City systems by the regular cleaning of catch basins, gravel truck loading and heavy equipment areas, sweeping, and maintaining erosion control protective features. A drainage control plan and grading plan, prepared by a licensed civil engineer in accordance with standards adopted by the Director of Construction and Land Use, is required

with submittal of the building permit(s). Title 15, Street and Sidewalk Use, regulates construction activities within the public right-of-way. In addition, compliance with the Building Code which regulates construction measures in general; the Energy Code which requires energy conservation measures; and the Noise Ordinance which regulates construction noise, will, with the exception of construction impacts, reduce or eliminate short-term impacts to the environment to the extent that they will be sufficient without conditioning pursuant to SEPA policies. Further analysis and/or conditioning of some of the short term impacts are warranted.

Construction Impacts

The SEPA Overview Policy (SMC 25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675B) allow the reviewing agency to mitigate impacts associated with construction activities.

Construction activities are expected to affect the surrounding area. Impacts to traffic and roads are expected from truck trips during earth moving activities. In addition, delivery of concrete and other materials to the site will generate truck trips. As a result of these truck trips, an adverse impact to existing traffic will be introduced to the surrounding street system, which is unmitigated by existing codes and regulations.

Erosion impacts during project construction will be mitigated by the use of best management practices specified in the temporary erosion and sedimentation control plan for the project, as required by the City of Seattle's Stormwater, Grading, and Drainage Control Code. Typical practices include those measures that minimize the amount of soil exposed to wind and water action, as well as construction practices that control sediment and surface water discharge onto steep slopes. These measures include control of drainage, sediment control practices such as filter fabric fences and temporary sedimentation ponds. Best management practices include the use of facilities such as temporary sedimentation basins, silt fences, diversion dikes, catch basin filters, etc. to prevent the sediment from entering the downstream surface water system. Other practices include seeding, mulching and plastic sheeting. The City's Stormwater, Grading and Drainage Control Code provides for adequate mitigation during site preparation and therefore no further mitigation is warranted.

Long-Term Impacts

Long-term or use-related impacts are also anticipated from the proposal and include: increased ambient noise due to increased human activity; increased demand on public services and utilities; increased light and glare; and increased energy consumption. These long-term impacts are not considered significant because the impacts are minor in scope. Several adopted Codes and Ordinances and other agencies will appropriately mitigate the other use-related adverse impacts created by the proposal.

DECISION SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance with conditions. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

[] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

SEPA CONDITIONS

None.

CONDITIONS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Prior to issuance of the Master Use Permit:

1. The owner(s) and/or responsible parties shall provide a plan, prepared by a licensed professional with expertise in waterfront habitat restoration, showing appropriate re-vegetation of the most waterward 20 feet of the street end under their control.

Prior to issuance of any temporary or permanent certificate of occupancy, and for the life of the project:

2. The owner(s) and/or responsible parties shall ensure that vegetation is provided per plan in the most waterward 20 feet of the portion of the street end under their control.

For the life of the project

The owner(s) and/or responsible parties shall ensure

3. That an open channel, unobstructed by vessels or structures for access to and from the water for public navigation and for access to adjacent properties is maintained maintained. No tugboat, barge, or anything else associated with use on the subject property shall be moored in or otherwise obstruct the submerged portion of the street end.

NON-APPEALABLE ADMINISTRATIVE REQUIREMENTS:

- Please revise the cover sheet to call out each specific use and area of use for both existing and proposed uses. (i.e. as detailed in the email from John Bredal to Paul Janos of 10 September 2003). The site plan and all pertinent plan pages of the MUP set, and the cover sheet and all pertinent pages of the building permit plan set shall all be similarly revised.
- Please revise the site plan to remove the property line through the middle of the development site.
- Please also combine legals in a single block under the heading "Development Site Legal Description."

Signature: _____ Date: October 9, 2003

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